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# HOUSE BILL No. 1026

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-1-2-1; IC 22-2.

**Synopsis:** Employee lunch and rest breaks. Requires an employer to give an employee a lunch period of at least 30 minutes if the employee is scheduled to be on duty for at least six hours. Provides that if an employee works more than 12 consecutive hours, the employee must be given the opportunity for another lunch break. Requires an employer to provide a paid rest break of ten minutes to an employee who has been on duty for at least two continuous hours. Provides that the rest and lunch break requirements do not apply when the employer has only one employee on duty during specified periods. Specifies that the terms of a negotiated collective bargaining agreement, settlement agreement, or bona fide agreement between an employee and employer are not affected. Provides that a violation is a Class C infraction and that each time a person is in violation, the person commits a separate infraction.

**Effective:** July 1, 2001.

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## Smith V, Liggett

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January 8, 2001, read first time and referred to Committee on Labor and Employment.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1026

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 4-1-2-1 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2001]: Sec. 1. It is the intent of this chapter that  
3 state offices be open and able to conduct public business at all times  
4 during an eight and one-half (8 1/2) hour working day. Each employee  
5 shall work for a full seven and one-half (7 1/2) hours each working day  
6 and provision for a one (1) hour lunch period shall be provided each  
7 employee. Lunch hours of employees shall be staggered to permit the  
8 conduct of business at all times during a working day. **Rest breaks**  
9 **shall be provided as set forth in IC 22-2-14.** It shall be lawful for  
10 state offices to close their doors for business from the close of the  
11 working day each Friday or in the event Friday is a legal holiday, then  
12 from the close of the working day on the Thursday which immediately  
13 precedes such legal holiday, until the commencement of the working  
14 day on the next following Monday, or in the event Monday is a legal  
15 holiday, then until the commencement of the working day on the  
16 Tuesday which immediately follows such legal holiday; provided,  
17 however, that the state library may be kept open until noon Saturdays

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in the discretion of the Indiana library and historical board.

SECTION 2. IC 22-2-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 13. Employee Lunch Breaks**

**Sec. 1. This chapter does not:**

- (1) affect the terms of a negotiated collective bargaining agreement or settlement agreement; or
- (2) negate a bona fide agreement between an employee and employer.

**Sec. 2. As used in this chapter, "duty" means the active performance of functions required by an employer and does not imply physical presence at the location of employment.**

**Sec. 3. As used in this chapter, "employee" means a person employed or permitted to work or perform a service for remuneration or under a contract for hire, written or oral, express or implied, by an employer. However, the term does not include the following:**

- (1) A member of a religious order who is performing a service for that order.
- (2) An ordained, a commissioned, or a licensed minister, priest, rabbi, sexton, or Christian Science reader who is performing services for a religious organization.
- (3) A person who is employed as a salesperson, if all of the person's services are performed for remuneration solely by commission.
- (4) A person employed in an executive, an administrative, or a professional occupation if the person has the authority to employ or discharge.
- (5) An employee with respect to whom the federal Interstate Commerce Commission has power to establish qualifications and maximum hours of service under the federal Motor Carrier Safety Act (49 U.S.C. 31502(b)) or an employee of a carrier subject to IC 8-2.1.
- (6) An employee subject to the federal Railway Labor Act (45 U.S.C. 151 et seq.).
- (7) An employee of the state subject to IC 4-1-2-1.

**Sec. 4. As used in this chapter, "employer" means an individual, a partnership, an association, a limited liability company, a corporation, or a business trust. However, the term does not include the state.**

**Sec. 5. (a) An employer shall provide a lunch break of at least**

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thirty (30) minutes to an employee who is scheduled to be on duty for at least six (6) consecutive hours.

(b) The lunch break must be available immediately after the first four (4) hour period of duty.

(c) If an employee works more than twelve (12) consecutive hours, the employee shall be provided the opportunity for another lunch break of at least thirty (30) minutes.

(d) If:

(1) the duties of the position do not allow the employee to take a lunch break;

(2) the lunch break normally is to be unpaid; and

(3) the employee works through the lunch break;

the employee shall be paid for the time of the lunch break at the normal rate.

(e) This section does not apply when the employer has only one (1) employee on duty during a period of four (4) or more consecutive hours.

Sec. 6. (a) A person who violates this chapter commits a Class C infraction.

(b) Each time a person violates this chapter, the person commits a separate infraction.

SECTION 3. IC 22-2-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

#### **Chapter 14. Employee Rest Breaks**

##### **Sec. 1. This chapter does not:**

(1) affect the terms of a negotiated collective bargaining agreement or settlement agreement; or

(2) negate a bona fide agreement between an employee and employer.

Sec. 2. As used in this chapter, "duty" means the active performance of functions required by an employer and does not imply physical presence at the location of employment.

Sec. 3. As used in this chapter, "employee" means a person employed or permitted to work or perform a service for remuneration or under a contract for hire, written or oral, expressed or implied, by an employer. However, the term does not include the following:

(1) A member of a religious order who is performing a service for that order.

(2) An ordained, a commissioned, or a licensed minister, priest, rabbi, sexton, or Christian Science reader who is

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performing services for a religious organization.

(3) A person who is employed as a salesperson, if all of the person's services are performed for remuneration solely by commission.

(4) A person employed in an executive, an administrative, or a professional occupation if the person has the authority to employ or discharge.

(5) An employee with respect to whom the federal Interstate Commerce Commission has power to establish qualifications and maximum hours of service under the federal Motor Carrier Safety Act (49 U.S.C. 31502(b)) or an employee of a carrier subject to IC 8-2.1.

(6) An employee subject to the federal Railway Labor Act (45 U.S.C. 151 et seq.).

Sec. 4. As used in this chapter, "employer" means an individual, a partnership, an association, a limited liability company, a corporation, a business trust, and the state.

Sec. 5. (a) An employer shall provide a paid rest break of ten (10) minutes to an employee who has been on duty for at least two (2) continuous hours.

(b) The employer shall provide a rest break as provided in subsection (a) after every two (2) continuous hours of work.

(c) If the employee has taken a lunch break after four (4) continuous hours of work, as provided in IC 22-2-13-5, the employee is not entitled to a rest break after the second two (2) hour period.

(d) This section does not apply when the employer has only one (1) employee on duty during a period of two (2) or more consecutive hours.

Sec. 6. (a) A person who violates this chapter commits a Class C infraction.

(b) Each time a person violates this chapter, the person commits a separate infraction.

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